

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1120

Citations Affected: IC 27-1-15.6-2; IC 27-1-15.6-12; IC 27-7-9-18.

Synopsis: Mine subsidence and insurance. Defines "person" for purposes of the insurance producer licensing statute. Revises a provision of the insurance producer licensure statute concerning violations. Effective September 1, 2001, removes a June 30, 2000, expiration of the requirement that an insurer inform a prospective policyholder of the availability of mine subsidence insurance. Increases the maximum limit of mine subsidence coverage that an insurer agrees to cede to the commissioner of the department of insurance under a reinsurance agreement from \$100,000 to \$200,000 per structure. Requires the department of insurance to publish a report regarding mine subsidence insurance. (This conference committee report does the following: (1) Defines "person" for purposes of the insurance producer licensing statute. (2) Revises a provision of the insurance producer licensure statute concerning violations. (3) Effective September 1, 2001, removes a June 30, 2000, sunset on the requirement that an insurer inform a prospective policyholder of the availability of mine subsidence insurance. (4) Requires the department of insurance to publish a report every three years regarding mine subsidence insurance. (5) Makes technical changes.)

Effective: July 1, 2001; January 1, 2002.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1120 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 27-1-15.6-2, AS ADDED BY HEA 1674-2001,
- 4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JANUARY 1, 2002]: Sec. 2. The following definitions apply
- 6 throughout this chapter, IC 27-1-15.7, and IC 27-1-15.8:
- 7 (1) "Bureau" refers to the child support bureau of the division of
- 8 family and children established under IC 12-17-2-5.
- 9 (2) "Business entity" means a corporation, an association, a
- 10 partnership, a limited liability company, a limited liability
- 11 partnership, or another legal entity.
- 12 (3) "Commissioner" means the insurance commissioner appointed
- 13 under IC 27-1-1-2.
- 14 (4) "Consultant" means a person who:
- 15 (A) holds himself or herself out to the public as being engaged
- 16 in the business of offering; or
- 17 (B) for a fee, offers;
- 18 any advice, counsel, opinion, or service with respect to the
- 19 benefits, advantages, or disadvantages promised under any policy
- 20 of insurance that could be issued in Indiana.
- 21 (5) "Delinquent" means the condition of being at least:
- 22 (A) two thousand dollars (\$2,000); or

- 1 (B) three (3) months;
- 2 past due in the payment of court ordered child support.
- 3 (6) "Home state" means the District of Columbia or any state or
- 4 territory of the United States in which an insurance producer:
- 5 (A) maintains the insurance producer's principal place of
- 6 residence or principal place of business; and
- 7 (B) is licensed to act as an insurance producer.
- 8 (7) "Insurance producer" means a person required to be licensed
- 9 under the laws of Indiana to sell, solicit, or negotiate insurance.
- 10 (8) "License" means a document issued by the commissioner
- 11 authorizing a person to act as an insurance producer for the lines
- 12 of authority specified in the document. The license itself does not
- 13 create any authority, actual, apparent, or inherent, in the holder to
- 14 represent or commit an insurance carrier.
- 15 (9) "Limited line credit insurance" includes the following:
- 16 (A) Credit life insurance.
- 17 (B) Credit disability insurance.
- 18 (C) Credit property insurance.
- 19 (D) Credit unemployment insurance.
- 20 (E) Involuntary unemployment insurance.
- 21 (F) Mortgage life insurance.
- 22 (G) Mortgage guaranty insurance.
- 23 (H) Mortgage disability insurance.
- 24 (I) Guaranteed automobile protection (gap) insurance.
- 25 (J) Any other form of insurance:
- 26 (i) that is offered in connection with an extension of credit and
- 27 is limited to partially or wholly extinguishing that credit
- 28 obligation; and
- 29 (ii) that the insurance commissioner determines should be
- 30 designated a form of limited line credit insurance.
- 31 (10) "Limited line credit insurance producer" means a person who
- 32 sells, solicits, or negotiates one (1) or more forms of limited line
- 33 credit insurance coverage to individuals through a master,
- 34 corporate, group, or individual policy.
- 35 (11) "Limited lines insurance" means any of the following:
- 36 (A) The lines of insurance defined in section 18 of this chapter.
- 37 (B) Any line of insurance the recognition of which is considered
- 38 necessary by the commissioner for the purpose of complying
- 39 with section 8(e) of this chapter.
- 40 (C) For purposes of section 8(e) of this chapter, any form of
- 41 insurance with respect to which authority is granted by a home
- 42 state that restricts the authority granted by a limited lines
- 43 producer's license to less than total authority in the associated
- 44 major lines described in section 7(a)(1) through 7(a)(6) of this
- 45 chapter.
- 46 (12) "Limited lines producer" means a person authorized by the
- 47 commissioner to sell, solicit, or negotiate limited lines insurance.
- 48 (13) "Negotiate" means the act of conferring directly with or
- 49 offering advice directly to a purchaser or prospective purchaser of
- 50 a particular contract of insurance concerning any of the substantive
- 51 benefits, terms, or conditions of the contract, provided that the

person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(14) **"Person" means an individual or a business entity.**

(15) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of a company.

~~(15)~~ (16) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

~~(16)~~ (17) "Surplus lines producer" means a person who sells, solicits, negotiates, or procures from an insurance company not licensed to transact business in Indiana an insurance policy that cannot be procured from insurers licensed to do business in Indiana.

~~(17)~~ (18) "Terminate" means:

(A) the cancellation of the relationship between an insurance producer and the insurer; or

(B) the termination of a producer's authority to transact insurance.

~~(18)~~ (19) "Uniform business entity application" means the current version of the national association of insurance commissioners uniform business entity application for resident and nonresident business entities.

~~(19)~~ (20) "Uniform application" means the current version of the national association of insurance commissioners uniform application for resident and nonresident producer licensing.

SECTION 2. IC 27-1-15.6-12, AS ADDED BY HEA 1674-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 12. (a) For purposes of this section, "permanently revoke" means that:

(1) the producer's license shall never be reinstated; and

(2) the former licensee, after the license revocation, is not eligible to submit an application for a license to the department.

(b) The commissioner may levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for any of the following causes:

(1) Providing incorrect, misleading, incomplete, or materially untrue information in a license application.

(2) Violating:

(A) an insurance law; ~~or~~

(B) a regulation;

(C) a subpoena **of an insurance commissioner**; or

(D) an order of ~~the~~ **an** insurance commissioner;

of Indiana or of another state.

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud.

(4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance

- 1 business.
- 2 (5) Intentionally misrepresenting the terms of an actual or proposed
- 3 insurance contract or application for insurance.
- 4 (6) Having been convicted of a felony.
- 5 (7) Admitting to having committed or being found to have
- 6 committed any unfair trade practice or fraud in the business of
- 7 insurance.
- 8 (8) Using fraudulent, coercive, or dishonest practices, or
- 9 demonstrating incompetence, untrustworthiness, or financial
- 10 irresponsibility in the conduct of business in Indiana or elsewhere.
- 11 (9) Having an insurance producer license, or its equivalent, denied,
- 12 suspended, or revoked in any other state, province, district, or
- 13 territory.
- 14 (10) Forging another's name to an application for insurance or to
- 15 any document related to an insurance transaction.
- 16 (11) Improperly using notes or any other reference material to
- 17 complete an examination for an insurance license.
- 18 (12) Knowingly accepting insurance business from an individual
- 19 who is not licensed.
- 20 (13) Failing to comply with an administrative or court order
- 21 imposing a child support obligation.
- 22 (14) Failing to pay state income tax or to comply with any
- 23 administrative or court order directing payment of state income
- 24 tax.
- 25 (15) Failing to satisfy the continuing education requirements
- 26 established by IC 27-1-15.7.
- 27 (16) Violating section 31 of this chapter.
- 28 (17) Failing to timely inform the commissioner of a change in legal
- 29 name or address, in violation of section 7(h) of this chapter.
- 30 (c) The commissioner shall refuse to:
- 31 (1) issue a license; or
- 32 (2) renew a license issued;
- 33 under this chapter to any person who is the subject of an order issued
- 34 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or
- 35 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- 36 (d) If the commissioner refuses to renew a license or denies an
- 37 application for a license, the commissioner shall notify the applicant or
- 38 licensee and advise the applicant or licensee, in a writing sent through
- 39 regular first class mail, of the reason for the denial of the applicant's
- 40 application or the nonrenewal of the licensee's license. The applicant
- 41 or licensee may, not more than sixty-three (63) days after notice of
- 42 denial of the applicant's application or nonrenewal of the licensee's
- 43 license is mailed, make written demand to the commissioner for a
- 44 hearing before the commissioner to determine the reasonableness of the
- 45 commissioner's action. The hearing shall be held not more than thirty
- 46 (30) days after the applicant or licensee makes the written demand, and
- 47 shall be conducted under IC 4-21.5.
- 48 (e) The license of a business entity may be suspended, revoked, or
- 49 refused if the commissioner finds, after hearing, that a violation of an
- 50 individual licensee acting on behalf of the partnership or corporation
- 51 was known or should have been known by one or more of the partners,

officers, or managers of the partnership or corporation and:

- (1) the violation was not reported to the commissioner; and
- (2) no corrective action was taken.

(f) In addition to or in lieu of any applicable denial, suspension, or revocation of a license under subsection (b), a person may, after a hearing, be subject to the imposition by the commissioner under subsection (b) of a civil penalty of not less than fifty dollars (\$50) and not more than ten thousand dollars (\$10,000). A penalty imposed under this subsection may be enforced in the same manner as a civil judgement.

(g) A licensed insurance producer or limited lines producer shall, not more than ten (10) days after the producer receives a request in a registered or certified letter from the commissioner, furnish the commissioner with a full and complete report listing each insurer with which the licensee has held an appointment during the year preceding the request.

(h) If a licensee fails to provide the report requested under subsection (g) not more than ten (10) days after the licensee receives the request, the commissioner may, in the commissioner's sole discretion, without a hearing, and in addition to any other sanctions allowed by law, suspend any insurance license held by the licensee pending receipt of the appointment report.

(i) The commissioner shall promptly notify all appointing insurers and the licensee regarding any suspension, revocation, or termination of a license by the commissioner under this section.

(j) The commissioner may not grant, renew, continue, or permit to continue any license if the commissioner finds that the license is being used or will be used by the applicant or licensee for the purpose of writing controlled business. As used in this subsection, "controlled business" means:

- (1) insurance written on the interests of:

- (A) the applicant or licensee;
- (B) the applicant's or licensee's immediate family; or
- (C) the applicant's or licensee's employer; or

- (2) insurance covering:

- (A) the applicant or licensee;
- (B) members of the applicant's or licensee's immediate family;
- or
- (C) either:

- (i) a corporation, limited liability company, association, or partnership; or

- (ii) the officers, directors, substantial stockholders, partners, members, managers, employees of such a corporation, limited liability company, association, or partnership;

of which the applicant or licensee or a member of the applicant's or licensee's immediate family is an officer, director, substantial stockholder, partner, member, manager, associate, or employee.

However, this section does not apply to insurance written or interests insured in connection with or arising out of credit transactions. A license is considered to have been used or intended to be used for the purpose of writing controlled business if the commissioner finds that

during any twelve (12) month period the aggregate commissions earned from the controlled business exceeded twenty-five percent (25%) of the aggregate commission earned on all business written by the applicant or licensee during the same period.

(k) The commissioner has the authority to:

(1) enforce the provisions of; and

(2) impose any penalty or remedy authorized by;

this chapter or any other provision of this title against any person who is under investigation for or charged with a violation of this chapter or any other provision of this title, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(l) For purposes of this section, the violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract shall be considered a violation described in subsection (b)(2).

(m) The commissioner may order a licensee to make restitution if the commissioner finds that the licensee has committed a violation described in:

(1) subsection (b)(4);

(2) subsection (b)(7);

(3) subsection (b)(8); or

(4) subsection (b)(16).

(n) The commissioner shall notify the securities commissioner appointed under IC 23-2-1-15 when an administrative action or civil proceeding is filed under this section and when an order is issued under this section denying, suspending, or revoking a license."

Page 1, line 2, delete "JANUARY 1, 2002]" and insert "SEPTEMBER 1, 2001]".

Page 2, line 4, strike "However, an insurer is not required to inform a".

Page 2, strike line 5.

Page 2, line 6, strike "coverage if the issuance of the policy will take place after".

Page 2, line 7, delete "December 31, 2006."

Page 3, after line 29, begin a new paragraph and insert:

"SECTION 5. IC 27-7-9-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18. The department of insurance shall, every three (3) years beginning not later than November 1, 2001, publish a report regarding mine subsidence insurance provided under this chapter, including the:**

(1) number of claims filed;

(2) amount paid for each claim; and

(3) amount remaining in the mine subsidence insurance fund established under section 7 of this chapter;

since the date of the previous publication of the report under this section.

SECTION 6. HEA 1674-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: SECTION 28. (a) After December 31, 2001:

(1) any reference in the Indiana Code to an insurance agent shall be treated as a reference to an insurance producer (as defined in

1 IC 27-1-15.6-2(7), as added by this act);
2 (2) any reference in the Indiana Code to a surplus lines insurance
3 agent shall be treated as a reference to a surplus lines producer (as
4 defined in ~~IC 27-1-15.6-2(16)~~; **IC 27-1-15.6-2(17)**, as added by
5 this act); and
6 (3) any reference in the Indiana Code to a limited insurance
7 representative shall be treated as a reference to a limited lines
8 producer (as defined in IC 27-1-15.6-2(12), as added by this act).
9 (b) This SECTION expires June 30, 2005."
10 Renumber all SECTIONS consecutively.
(Reference is to EHB 1120 as printed April 6, 2001.)

Conference Committee Report
on
Engrossed House Bill 1120

Signed by:

Representative Hasler
Chairperson

Senator Server

Representative Becker

Senator Young R

House Conferees

Senate Conferees